

In the Matter of:

JOSEPH STRONG

v

POLICE OFFICER JOSEPH PERRONE

JOSEPH PERRONE

July 19, 2018



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOSEPH STRONG,

Plaintiff,

Case No. 17-cv-6183

v.

POLICE OFFICER JOSEPH PERRONE,

Defendant.

Deposition Upon Oral Examination of:

Joseph Perrone

Location: City of Rochester
Department of Law
City Hall
30 Church Street, Room 400A
Rochester, New York 14614-1224

Date: July 19, 2018

Time: 2:01 p.m.

Reported By: MICHELLE MUNDT ROCHA
Alliance Court Reporting, Inc.
120 East Avenue, Suite 200
Rochester, New York 14604



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A P P E A R A N C E S

Appearing on Behalf of Plaintiff:

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Appearing on Behalf of Defendant:

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* * *



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S T I P U L A T I O N S

THURSDAY, JULY 19, 2018;

(Proceedings in the above-titled matter
commencing at 2:01 p.m.)

* * *

IT IS HEREBY STIPULATED by and between the
attorneys for the respective parties that this
deposition may be taken by the Plaintiff at this time
pursuant to notice;

IT IS FURTHER STIPULATED, that all
objections except as to the form of the questions and
responsiveness of the answers, be reserved until the
time of the trial;

IT IS FURTHER STIPULATED, that pursuant to
Federal Rules of Civil Procedure 30(e)(1) the witness
requests to review the transcript and make any
corrections to same before any Notary Public;

IT IS FURTHER STIPULATED, that if the
original deposition has not been duly signed by the
witness and returned to the attorney taking the
deposition by the time of trial or any hearing in this
cause, a certified transcript of the deposition may be
used as though it were the original;

IT IS FURTHER STIPULATED, that the
attorneys for the parties are individually responsible



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1 JOSEPH PERRONE - BY MR. ALBERT
2 for their certified transcript charge, including any
3 expedite or other related production charges in
4 accordance with Rochester Rules;

5 AND IT IS FURTHER STIPULATED, that the
6 Notary Public, MICHELLE MUNDT ROCHA, may administer
7 the oath to the witness.

8 * * *

9 JOSEPH PERRONE,
10 called herein as a witness, first being sworn,
11 testified as follows:

12 EXAMINATION BY MR. ALBERT:

13 Q. Good afternoon, Officer Perrone.

14 A. Good afternoon.

15 Q. Officer, my name is Matt Albert. I
16 represent Joseph Strong in a civil suit against at
17 this point just you relating to an incident that
18 happened back in January of 2015.

19 Have you done depositions before?

20 A. Never.

21 Q. Okay. You've testified in courtrooms
22 before?

23 A. Yes, I have.

24 Q. So it's the same principles. Basically in
25 regular conversation we might overlap, that's how it



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2 goes. You might know what I'm going to ask you, so
3 you answer before I'm done with the sentence. But as
4 you know, with a court reporter, we have to make her
5 happy and wait. Only one person can talk at a time is
6 what I'm trying to say.

7 A. Okay.

8 Q. And obviously if I ask you something that
9 you're unclear about, let me know, and I'll try again.
10 Fair enough?

11 A. Fair enough.

12 Q. Okay. Officer, let's start with how long
13 have you been employed with the City of Rochester
14 Police Department?

15 A. 12 years now, currently assigned as a
16 sergeant.

17 Q. Okay, you're a sergeant now. Back in '15
18 what was your rank at that time?

19 A. Officer.

20 Q. And what's your level of education?

21 A. I have some college, no degree.

22 Q. And back in '15 you were patrol; is that
23 correct?

24 A. Yes.

25 Q. Is that what you were from when you



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2 started your career at the police department?

3 A. Yes.

4 Q. And let me ask you this question:
5 Obviously your main duties as patrol is to respond to
6 911 calls; correct?

7 A. Correct.

8 Q. Are those calls recorded in any way, shape
9 or form?

10 A. The actual phone call?

11 Q. Right.

12 A. Yes, I believe through 911 they are.

13 Q. That's what I thought. What agency is
14 responsible for recording the 911 calls, if you know?

15 A. To my knowledge, it would be the Monroe
16 County emergency communications department.

17 Q. Do you know how long each call is
18 preserved for?

19 A. I do not.

20 Q. Monroe County emergency -- sorry.

21 A. Monroe County emergency communications
22 department.

23 Q. Communications department?

24 A. Yes.

25 Q. And as a patrol officer, when a 911 call



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2 comes in, do you hear the contents of the phone call?

3 A. No.

4 Q. So how is that 911 call transmitted to
5 you?

6 A. I don't work in that capacity of
7 communications. But to my knowledge, it goes through
8 a telecommunicator, who receives the phone call from
9 the individual calling 911; and that information is
10 then transmitted to a dispatcher, who enters it onto
11 the computer as well as dispatches it over the air as
12 well as on the computer.

13 Q. So when you're responding to a call,
14 that's based upon both radio transmissions as well as
15 computer data; correct?

16 A. Correct.

17 Q. All right. And we're going to get to the
18 call in question on January 16, 2015, in a second.
19 First some more background questions.

20 Prior to this date, had you ever shot a
21 dog previously in your career as a Rochester Police
22 Officer?

23 A. Yes.

24 Q. How many?

25 A. Before that date, I believe it was two



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2 occasions.

3 Q. So you've shot three dogs in your career;
4 correct? Or have you shot any after that date?

5 A. There was one after that, I believe.

6 Q. So you've shot four dogs in your career;
7 correct?

8 A. Yes.

9 Q. Do you know whether anyone else in your
10 department has shot that many dogs?

11 A. I don't.

12 MR. BEATH: Objection.

13 If you know.

14 Q. You don't know if there is; right?

15 A. I don't know.

16 Q. So you don't know of anyone who has shot
17 four or more dogs that's employed by the Rochester
18 Police Department?

19 MR. BEATH: Objection.

20 You can answer.

21 A. I don't know.

22 Q. And have you ever shot any dogs while you
23 were off duty at any time in your life?

24 A. No.

25 Q. Just when you're on duty; correct?



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2 A. Correct.

3 MR. BEATH: Objection.

4 You can answer.

5 MR. ALBERT: What's the basis for that
6 one?

7 MR. BEATH: He's already testified that he
8 shot dogs while he was on duty. That's his answer.

9 Q. Do you know whether any of those dogs
10 survived being shot by you?

11 A. Yes, I do.

12 Q. And have they?

13 A. Yes.

14 Q. Which ones?

15 A. There was a German Shepherd that was shot
16 by me, and it was shot in the leg, and it survived.

17 Q. What about the other three, how did they
18 make out?

19 A. One other lived as well; and the other one
20 I don't know, because it was cared for by the owner,
21 and I don't know the outcome.

22 Q. Do you know the breed of the other dog
23 that you said survived?

24 A. I believe it was a pit bull mix kind of.

25 Q. Do you know the approximate dates of these



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2 shootings?

3 A. The first one was probably in 2008. The
4 second one maybe 2011, '10, somewhere around there.
5 And then the other two were in '15.

6 Q. This incident in January and then a
7 subsequent one; correct?

8 A. Yes.

9 MR. ALBERT: And I'll follow this up in
10 writing; but for the record, I'd just make a continued
11 request to produce any and all documentation,
12 including discharge firearm forms relating to these
13 four instances.

14 MR. BEATH: You can put it in writing.
15 We'll take it under advisement.

16 (Document request -- Documents relating to four
17 dog shootings)

18 Q. Have you ever faced any disciplinary
19 action while employed by the Rochester Police
20 Department?

21 MR. BEATH: Objection. I'm going to
22 instruct the officer not to answer except insofar as
23 to similar incidents. So if you want to ask him about
24 discipline concerning other dog shootings --

25 MR. ALBERT: Well, I think he has to



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2 answer; whether it's admissible or not is a separate
3 question in its entirety. But for the purpose of
4 depositions, anything is admissible that can lead to
5 potentially admissible evidence.

6 MR. BEATH: These records are protected
7 under the Civil Rights Rule 50A.

8 MR. ALBERT: I know that.

9 MR. BEATH: So I'm not going to let him
10 answer. I'm happy if you want to call the court and
11 get a ruling, but he can answer insofar as it pertains
12 to discipline resulting from other dog shootings.

13 MR. ALBERT: I mean, I don't want to stop
14 the depositions.

15 MR. BEATH: We can mark it for a ruling if
16 you'd prefer to do that.

17 MR. ALBERT: Sure. That's fine. Meaning?

18 MR. BEATH: Meaning we'll put something in
19 the transcript indicating that we had a dispute; and
20 then if you want to make a motion later, we'll make a
21 motion.

22 MR. ALBERT: That's fine.

23 Q. Relating to the four shootings that you've
24 referenced, have you ever faced any disciplinary
25 action relating to any or all of those shootings?



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2 A. No.

3 Q. Has anyone filed an internal affairs or
4 grievance complaint against you, as far as you know,
5 for any of these four shootings?

6 A. No.

7 Q. Have you ever shot any people during your
8 career as a police officer?

9 MR. BEATH: Objection. I am not going to
10 let him answer the question.

11 MR. ALBERT: He has to answer that. It's
12 work history.

13 MR. BEATH: He's not going to answer the
14 question.

15 MR. ALBERT: Okay. Let's get the judge on
16 the phone, please.

17 (The proceeding recessed at 2:09 p.m.)

18 (The proceeding reconvened at 2:26 p.m.;
19 appearances as before noted.)

20 JOSEPH PERRONE, resumes;

21 CONTINUING EXAMINATION BY MR. ALBERT:

22 Q. Officer Perrone, do you have any dogs
23 yourself?

24 A. I do.

25 Q. Yeah? What breeds?



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2 A. I have a pit bull.

3 Q. Okay. And how long have you had that dog
4 for?

5 A. Five years.

6 Q. I'm going to go directly at this point to
7 the date in question, January 16, 2015. You were
8 working on that date; correct?

9 A. Correct.

10 Q. And what was your shift that day, do you
11 know?

12 A. 7 a.m. to 3 p.m.

13 Q. And had you been working a double the
14 night before, or did you start at 7?

15 A. I started at 7.

16 Q. And did you receive a dispatch at or
17 around 11:15 directing you to Trafalgar Street?

18 A. Yes, I did.

19 Q. Do you recall what the nature of that
20 dispatch was?

21 A. It's my recollection it was for a neighbor
22 calling in that there was an open door across the
23 street from them, and they thought that there might be
24 a burglary occurring at that home.

25 MR. ALBERT: Okay.



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1 JOSEPH PERRONE - BY MR. ALBERT
2 (There was a discussion off the record.)
3 (The proceeding recessed at 2:29 p.m.)
4 (The proceeding reconvened at 2:32 p.m.;
5 appearances as before noted.)
6 (The following exhibit was marked for
7 identification: EXH Number 4.)

8 JOSEPH PERRONE, resumes;

9 CONTINUING EXAMINATION BY MR. ALBERT:

10 Q. So it looks like Deposition Exhibit 4 --
11 and if you would turn to the second page -- well,
12 first of all, do you recognize what this document is?

13 A. Yes, I do.

14 Q. What is it?

15 A. This appears to be a printout copy of what
16 would be entered in on the computer in one's police
17 car.

18 Q. Okay. So upon arriving -- strike that.

19 Before arriving, was there anything else
20 that you saw or anything else that you heard aside
21 from what popped up on your computer, this document?

22 A. I can't recall.

23 Q. And it looks like, following the lines,
24 its initial priority is a 1. What does that mean, 1P?

25 A. That's something the emergency



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2 communications department puts in. I do not know.

3 Q. So you don't know what that means as to
4 whether it's a high priority call, low priority call
5 or anything else?

6 A. If I would make an assumption, it would be
7 what's called a priority 1 call.

8 Q. Okay. What is a priority 1? Does that
9 mean it's top priority or lowest priority?

10 A. Yes, top priority.

11 Q. And does it indicate anywhere in the text
12 that the 911 caller indicated a burglary was taking
13 place?

14 A. They don't use the word "burglary," no.

15 Q. They say that a door's open; correct?

16 A. Correct.

17 Q. Do you remember what the weather was like
18 on the date and time in question?

19 A. Cold and snow.

20 Q. Aside from that, do you remember the wind
21 levels on that date?

22 A. No.

23 Q. You don't know whether it was real windy
24 or not?

25 A. I don't.



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2 Q. And were you riding in a one-car unit on
3 that date?

4 A. Yes, I was.

5 Q. And who was the first individual that
6 responded to that location, 123 Trafalgar Street?

7 A. Myself.

8 Q. And what did you do upon arrival?

9 A. I took an overview of the outside of the
10 house upon pulling up in front kind of close to the
11 location. To my recollection, I observed a front door
12 that was open; and I exited my police car and began to
13 walk towards the stairs.

14 (The following exhibit was marked for
15 identification: EXH Number 5.)

16 Q. Upon your walking towards the stairs, were
17 there any officers present at the scene at that point?

18 A. No.

19 Q. What happened next?

20 A. I observed the front door open. I made my
21 way into the vestibule area inside, where I was met by
22 a closed door, I believe, right in front of me. And
23 as I turned to my left, there was an open door that
24 appeared to lead to an apartment immediately to my
25 left.



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2 Q. Okay. So there's only so much we can do
3 with this photograph. But showing you depo Exhibit 5,
4 does this reflect the front area of 123 Trafalgar
5 Street?

6 A. I believe so.

7 Q. Take a moment to look at it.

8 A. Yes, it's 123 Trafalgar Street.

9 Q. And you're stating that there were two
10 doors to the -- there were -- there's an exterior door
11 and an interior door that one would have to access to
12 get into the first room in the front; correct?

13 A. Yes. This front door here (indicating), I
14 believe, was open. And then if you walk straight
15 through that open door, you're going to be met by a
16 closed door straight ahead.

17 Q. So there was a closed door straight ahead,
18 okay. And that second door cuts off access to the
19 front unit; correct?

20 A. I'm not sure where that front door led.

21 Q. Okay. So you set foot in the residence;
22 is that correct?

23 A. Into the vestibule area there, yes.

24 Q. What happened next?

25 A. I observed an open door to my left, which



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2 would be just past this first door (indicating).

3 There's an open door on the left that looks to go to
4 lead to an apartment there.

5 Q. Then what happened?

6 A. I heard -- I took, you know, observations
7 of that. I heard what I believed to be a television
8 on at the time. Wondering what was going on, I made a
9 verbal announcement of, "Rochester Police Department.
10 If anyone's inside, make yourself known."

11 Q. And, now, at any point did you -- you
12 walked into the vestibule area without knocking;
13 correct?

14 A. Yeah, the door was open. Yes.

15 Q. Okay. Why did you announce your presence
16 inside the house as opposed to outside the residence?

17 A. I made my announcement where the open door
18 was into the apartment.

19 Q. But the question was why did you -- did
20 you try -- when you were outside the house, did you
21 try to make any contact with anyone who was inside the
22 house?

23 A. No.

24 Q. Why not?

25 A. I didn't think that was reasonable at the



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2 time.

3 Q. Why?

4 A. Because I didn't notice the other door to
5 the left was open. I wouldn't know that until I went
6 into the vestibule area. I made my announcement
7 because of the open door into the apartment, not the
8 open door to the front.

9 Q. Was your gun drawn at any point?

10 A. When I noticed the open door to the left
11 that led to an actual apartment, I believed there to
12 be a possible burglary in progress. So my gun was
13 drawn at that point.

14 Q. But your gun was not drawn as you walked
15 up to the porch; correct?

16 A. Correct.

17 Q. Now, you walked up the steps, you pull
18 open the door -- the exterior door; right?

19 A. No.

20 Q. I'm sorry. The exterior door was open.
21 So you walked in, and then you walked up to the left;
22 is that correct?

23 A. No. Just immediately upon entering this
24 open front door, there's a vestibule area in there.
25 As soon as you enter, all I had to do was look to my



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2 left, and there was a door there that was open. So I
3 stopped at that point.

4 Q. Okay. So you -- okay. Understood. You
5 go through the open exterior door; right?

6 A. (The witness indicated nonverbally.)

7 Q. Then you look off to your left; correct?

8 A. Correct.

9 Q. You see the open door to your left;
10 correct?

11 A. Correct.

12 Q. Then you announce your presence; correct?

13 A. Correct.

14 Q. How long did all that take, roughly?

15 A. Roughly maybe a minute.

16 Q. So you were in the residence for about a
17 minute before you announced your presence; is that
18 accurate?

19 A. In the vestibule area?

20 Q. Yes.

21 A. I mean, within a minute is I'm in the
22 vestibule area noticing the open door and announcing
23 my presence.

24 Q. So within a minute. But was it within ten
25 seconds or closer to a minute?



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2 A. Within a minute.

3 Q. So you don't know -- you can't give us a
4 better time estimate than within a minute?

5 A. I can give you within a minute.

6 Q. Okay. Then what happened?

7 A. I make my announcement. Immediately upon
8 finishing my announcement I'm met with a dog that is
9 charging towards me from that apartment.

10 Q. Where was the dog coming from?

11 A. The apartment to the left with the open
12 door.

13 Q. Did the dog -- when you say the dog was
14 charging, describe what you mean by that.

15 A. Traveling quickly.

16 Q. Traveling quickly, okay. And aside from
17 the dog moving at, I guess, a quick rate of speed,
18 what else was the dog doing, if anything, that you
19 recall?

20 A. The dog showed its teeth, was low to the
21 ground and was not making any sound.

22 Q. So when you say the dog was low to the
23 ground, if you could maybe elaborate what you mean by
24 that, please.

25 A. Low to the ground, traveling quickly.



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2 Just like it had a mission on where it was going.

3 Q. Okay. As you turn to your left, make the
4 announcement, where are you in relation to that open
5 door that the dog came out of?

6 A. Inside the vestibule, just outside of the
7 open door to the apartment.

8 Q. And when did you first see the dog?

9 A. When it came towards me.

10 Q. Where did the dog start its path towards
11 you?

12 A. Like I said, from the open door inside the
13 apartment.

14 Q. Well, right. But the dog didn't start at
15 the open door, or you would have seen the dog right
16 when you looked to your left; correct?

17 A. I don't know where the dog came from
18 inside the apartment.

19 Q. That's what I'm asking.

20 A. I don't know.

21 Q. So how far away was the dog from you when
22 you first observed the dog?

23 A. At my feet.

24 Q. But you stated that the dog was charging
25 at you. But now you're saying that you first saw the



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2 dog when she was already at your feet?

3 A. Correct.

4 Q. So how does that -- so basically you're
5 saying that --

6 A. Maybe a foot from my feet.

7 Q. Okay. So the dog charged for one foot is
8 what you're saying?

9 A. Yeah. The dog was coming quickly towards
10 me at my feet, yes.

11 Q. But the question is when you first saw the
12 dog, how close was the dog to you when you first saw
13 the dog?

14 A. The dog immediately appeared and was
15 traveling quickly towards me maybe a foot away.

16 Q. So the dog charged for one foot; correct?

17 A. Sure.

18 Q. And it moved at a very quick rate of speed
19 for that one foot; that's your testimony?

20 A. Sure.

21 Q. Okay. So did you make any verbal commands
22 to the dog in any way, shape or form?

23 A. No.

24 Q. What were you wearing on that date?

25 A. Full duty uniform.



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2 Q. What weaponry were you armed with, for
3 lack of a better term?

4 A. .45 caliber handgun.

5 Q. Did you have any pepper spray or anything
6 like that?

7 A. Yes.

8 Q. Where was that?

9 A. On my belt.

10 Q. The pepper spray was on your belt;
11 correct?

12 A. Correct.

13 Q. Anything else besides the gun and pepper
14 spray?

15 A. I have a Taser.

16 Q. Where was that?

17 A. On my belt.

18 Q. And even though the dog was at your
19 feet -- the dog didn't bite you, let's start there;
20 right?

21 A. No.

22 Q. And it didn't make a sound; correct?

23 A. Correct.

24 Q. And you had a gun, a Taser, as well as
25 pepper spray; correct?



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1 JOSEPH PERRONE - BY MR. ALBERT

2 A. I had my gun in my hand.

3 Q. Right. The other two things were on your
4 belt; correct?

5 A. Correct.

6 Q. So what did you do upon seeing the dog,
7 quote-unquote, at your feet?

8 A. I took a step backwards, realizing the dog
9 was continuing towards me, and I fired one round
10 downward towards the dog.

11 Q. How long -- downward in a completely
12 downward trajectory?

13 A. I wouldn't say completely downward. I
14 would say from here angled downward (indicating).

15 Q. How far away was the dog from you when you
16 shot the dog?

17 A. Probably a foot, less than a foot.

18 Q. And the dog was low to the ground; is that
19 accurate?

20 A. That's accurate.

21 Q. And if you could -- and we'll have to try
22 to put it into words, but could you show the
23 trajectory with which you discharged your firearm
24 towards the dog?

25 A. How would that go on the record?



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1 JOSEPH PERRONE - BY MR. ALBERT

2 Q. You'll maybe make a hand -- or you can try
3 to describe it, I guess.

4 MR. BEATH: If you're able to describe the
5 angle that you were holding the gun at when you
6 discharged it, go for it. If you can't, that's fine,
7 too.

8 A. If I'm standing, it's a downward angle
9 like this (indicating).

10 Q. So not straight down --

11 A. Correct.

12 Q. -- but at an angle. Okay.

13 You did take a step back; correct?

14 A. Yes.

15 Q. To see what the dog would do; correct?

16 A. Yes.

17 Q. Why did you not try to deploy a nonlethal
18 form of force at that time?

19 A. There was not enough reasonable time in
20 order to do that.

21 Q. But there was enough reasonable time to
22 take a step backwards; correct?

23 A. One step, yes.

24 Q. But in that time you're unable to pull out
25 pepper spray?



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1 JOSEPH PERRONE - BY MR. ALBERT

2 A. Correct.

3 Q. So you walk faster than you could pull
4 something?

5 MR. BEATH: Objection.

6 You can answer.

7 A. Yes. Based on training and experience,
8 yes.

9 Q. All right. And obviously you had to point
10 your gun towards the dog; correct?

11 A. Gun's already out, low ready position. So
12 the gun's already there.

13 Q. So you shot the dog; correct?

14 A. Correct.

15 Q. And did you know whether you made impact
16 or not?

17 A. I -- I don't know at that time.

18 Q. How many times did you pull the trigger,
19 if you know?

20 A. Three.

21 Q. When you shot the animal, you were still
22 in that vestibule area; correct?

23 A. The first shot, yes.

24 Q. Okay. Then what about the second two?

25 A. Second two I was running out onto the



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1 JOSEPH PERRONE - BY MR. ALBERT

2 porch from the vestibule area as the dog continued to
3 follow me outside, and which I fired two more rounds.

4 Q. So the second two shots the dog was
5 outside; correct?

6 A. The dog was on the vestibule at the door
7 area leading to the outside.

8 Q. Was he crossing the precipice to the
9 outside?

10 A. I'm not sure.

11 Q. But the dog was, I guess, in the front of
12 the house -- the front and center of the house;
13 correct?

14 A. That's correct.

15 Q. Either in the doorway or outside; correct?

16 A. Correct.

17 MR. BEATH: Objection.

18 You can answer.

19 Q. Either in the doorway or outside; right?

20 A. Correct.

21 Q. And no other officers were present at that
22 point; correct?

23 A. Correct.

24 Q. Do you know a Stephen Dawley?

25 A. Yes.



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1 JOSEPH PERRONE - BY MR. ALBERT

2 Q. Who is he?

3 A. He was my supervisor at the time.

4 Q. He wasn't present at the scene?

5 A. Not during the incident, no.

6 Q. When did he arrive?

7 A. After I informed him that there was a dog
8 shot.

9 Q. Did you do that over the radio?

10 A. Yes.

11 Q. Upon -- so you fired three shots; right?

12 A. Yes.

13 Q. Were they in close succession with one
14 another?

15 A. There was one, and then there was two
16 more.

17 Q. So how long after you fired the first shot
18 did you fire the second two shots?

19 A. Maybe a few seconds.

20 Q. A few seconds. All right. What happened
21 next?

22 A. The dog continued to stay out on the porch
23 area. I retreated all the way back to the sidewalk
24 street area. At that point is when another officer
25 showed up. And I informed him that there's a dog on



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1 JOSEPH PERRONE - BY MR. ALBERT

2 the front porch, and it's been shot. And I put it
3 over the air that I've shot a dog.

4 Q. Who was the other officer, if you recall?

5 A. I believe it was Officer Johnson.

6 Q. Did any other officers -- how long after
7 you shot the dog did Officer Johnson show up?

8 A. Maybe a minute.

9 Q. So how long from the time you arrived at
10 123 Trafalgar was it until a second officer showed up
11 on the scene?

12 A. One minute.

13 Q. One minute? Okay. So your testimony is
14 all this went down in one minute before another
15 officer showed up?

16 A. According to the CAD system here that you
17 have a printout of, my on-scene time is 11:30, and the
18 second officer arriving on scene is 11:31.

19 Q. You radioed in that the dog was shot
20 immediately after you shot the dog; correct?

21 A. Correct.

22 Q. When does the CAD indicate that you called
23 that in?

24 A. 11:31.

25 Q. And what happened when Officer Johnson



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1 JOSEPH PERRONE - BY MR. ALBERT

2 showed up?

3 A. I informed him of what happened. I
4 informed him that there's a dog on the front porch
5 suffering from gunshot wounds. We still had an open
6 door on the apartment that we still don't know what's
7 going on inside that apartment or if a crime has
8 occurred in that apartment. And I requested
9 supervisor and technician down to the scene.

10 Q. Then what happened?

11 A. My supervisor showed up. I informed him
12 of what happened, and I didn't have any other dealings
13 at the scene.

14 Q. Well, what do you mean by that? What did
15 you do after speaking to your supervisor?

16 A. I informed him of what happened. I
17 informed him of where this occurred, made sure that
18 the technician knew where to look for possible
19 evidence and my casings. Basically it was treated as
20 an officer-involved shooting.

21 And I went to inspect my gun to make sure
22 there was no malfunction and to see how many rounds I
23 fired from it.

24 Q. And your answer is three?

25 A. Yes.



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1 JOSEPH PERRONE - BY MR. ALBERT

2 (The following exhibits were marked for
3 identification: EXH Numbers 6 and 7.)

4 Q. Did you fill out any paperwork, forms,
5 documents relating to your discharge of your firearm
6 on the date and time in question?

7 A. No.

8 Q. Why not?

9 A. It's not a Rochester Police Department
10 policy.

11 Q. What is their policy in regards to when an
12 officer shoots?

13 A. When they shoot an animal, the supervisor
14 of that officer does the report.

15 Q. Obviously the supervisor wasn't there when
16 you discharged your firearm; correct?

17 A. Correct.

18 Q. Obviously you know as a law enforcement
19 officer that hearsay information is generally not
20 reliable nor admissible; correct?

21 MR. BEATH: Objection.

22 You can answer.

23 A. In some cases, maybe.

24 Q. Well, do you know -- and if you don't,
25 that's fine. But do you know why the policy is to



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1 JOSEPH PERRONE - BY MR. ALBERT

2 have the supervisor fill out the information as
3 opposed to the actual individual that was on scene
4 that lived it?

5 MR. BEATH: Objection.

6 You can answer.

7 A. I do not.

8 Q. Okay. Now, obviously, just to be clear,
9 you encountered the animal inside the house; correct?

10 A. Inside the vestibule area.

11 Q. Okay. Which is inside the house; right?
12 Is the vestibule outside?

13 A. No.

14 Q. Is the vestibule inside?

15 A. It's through a door, yes.

16 Q. I mean, I know it's the hallway. But if
17 we're talking inside or outside, it's inside; right?

18 A. Okay.

19 Q. Right? Yes?

20 A. It's through the outside door, yes.

21 Q. Okay. So the dog never ran out the front
22 door; correct?

23 MR. BEATH: Form.

24 A. The dog made it to the porch of the house
25 outside.



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1 JOSEPH PERRONE - BY MR. ALBERT

2 Q. I understand that the dog -- well, when
3 you say the dog made it to the front porch what do you
4 mean by that?

5 A. When I retreated out to the sidewalk and
6 finally created enough distance and the dog as a
7 threat was done, the dog was on the porch of the house
8 outside of the home.

9 (The following exhibit was marked for
10 identification: EXH Number 8.)

11 Q. Showing you depo Exhibit 8. Looking at
12 that, there's a top stairwell depicted in that
13 photograph; correct?

14 A. Yes.

15 Q. And there's also a big large spatter of
16 blood there; correct?

17 A. Where are you talking? There's a lot of
18 blood.

19 MR. BEATH: Hold on one second. I think
20 I'm getting a call from the court.

21 (There was a discussion off the record.)

22 (The proceeding recessed at 2:58 p.m.)

23 (The proceeding reconvened at 2:59 p.m.;
24 appearances as before noted.)

25 JOSEPH PERRONE, resumes;



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1 JOSEPH PERRONE - BY MR. ALBERT

2 CONTINUING EXAMINATION BY MR. ALBERT:

3 Q. Well, while that's fresh in our minds, I
4 guess, why don't we go back to that original line of
5 questioning. You had stated that you shot four
6 canines in your career. Have you shot any other
7 entities, living entities, during that time frame?

8 A. Are you asking while as a police officer
9 on duty?

10 Q. Or otherwise. Not including hunting
11 things.

12 A. Yes.

13 Q. Have you shot a human?

14 A. Yes.

15 Q. When?

16 A. 2009, January.

17 Q. Was that while you were on duty?

18 A. No.

19 Q. Was that -- could you describe the
20 circumstances of that shooting?

21 A. No.

22 Q. Why not?

23 THE WITNESS: Do I have to?

24 MR. BEATH: No.

25 It was not on duty. How is it relevant?



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1 JOSEPH PERRONE - BY MR. ALBERT

2 MR. ALBERT: We can call back, but
3 clearly -- I don't know. But this could easily lead
4 to relevant evidence. I mean...

5 MR. BEATH: It was an off-duty shooting.
6 I think the judge's instruction would encompass this.
7 I would ask that we mark this section of the
8 transcript as confidential.

9 MR. ALBERT: Yeah, absolutely.

10 MR. BEATH: To be shared only by counsel.
11 And if it becomes relevant, we're going to and we're
12 going to share it with the court, etcetera, then we
13 can discuss the means to do that.

14 MR. ALBERT: Absolutely.

15 MR. BEATH: So can we mark that in the
16 transcript that this section of the testimony is
17 confidential?

18 (There was a discussion off the record.)

19 (Pages 37 through 39, inclusive, have been
20 deemed "Confidential.")

21 * * *

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JOSEPH PERRONE - BY MR. ALBERT

(Pages 37 through 39, inclusive, have been
deemed "Confidential.")

* * *

CONFIDENTIAL EXAMINATION BY MR. ALBERT:

Q. Describe the circumstances with which
you -- did you kill someone in 2009?

A. Yes, I did.

Q. Describe those circumstances, please.

A. I pulled up on a robbery in progress at a
location in the town of Greece. I was observing the
robbery with two males with handguns. I exited my
police car with my off-duty handgun, challenged both
males, refused to drop the gun, and I shot one.

Q. And he died; correct?

A. Correct.

Q. Do you know whether that case -- did you
go before a Grand Jury on that case?

A. I did.

Q. Were you indicted?

A. No.

Q. It was no-billed?

A. Yes.

Q. Okay. Did you face any disciplinary
action for that particular shooting?



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JOSEPH PERRONE - BY MR. ALBERT

A. No.

Q. Have you ever faced any -- when I say
that -- I guess, let me rephrase that.

Did your actions go before a disciplinary
board?

A. It went to my internal affairs department,
yes.

Q. And what was the internal affairs ruling,
if you recall?

A. Justified. Exonerated.

Q. Have any of your actions gone before the
internal affairs review board in your career as a
police officer?

MR. BEATH: Objection.

MR. ALBERT: She said that both lines of
questioning, disciplinary records --

MR. BEATH: The only thing discussed with
Kristin were firearms discharge, not disciplinary
records more generally. If we want to call and get
another ruling -- the pitch that was made to Kristen
was about the four dog shootings and your desire to
inquire into any other shootings.

If you're asking about discipline beyond
any of that, then I renew my objection.



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1 CONFIDENTIAL
JOSEPH PERRONE - BY MR. ALBERT

2 MR. ALBERT: I understand that you can
3 object, and that's fine; but we're talking about
4 depositions here.

5 MR. BEATH: I'm not going to allow it.

6 MR. ALBERT: I mean, we can call back --
7 maybe for some clarification. We should probably call
8 back for some clarification. Because my understanding
9 was that she said both those questions should be
10 answered.

11 MR. BEATH: Okay.

12 (The proceeding recessed at 3:03 p.m.)

13 (The proceeding reconvened at 3:08 p.m.;
14 appearances as before noted.)

15 MR. BEATH: Are we still confidential?

16 MR. ALBERT: No. I'm done.

17 MR. BEATH: You're done with that line of
18 questioning?

19 MR. ALBERT: Yeah. Yeah, I am.

20 (The proceeding returned to the nonconfidential
21 portion of the record.)

22 * * *

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1 JOSEPH PERRONE - BY MR. ALBERT

2 JOSEPH PERRONE, resumes:

3 CONTINUING EXAMINATION BY MR. ALBERT:

4 Q. I forget exactly where we were, but did
5 the dog ever make it further than this front porch?
6 Did the dog ever make it to any of the steps on its
7 own?

8 A. I don't recall. I remember seeing the dog
9 on the porch right at the top of the steps there.

10 Q. So this is where the dog was laying; is
11 that accurate (indicating)?

12 A. Standing and laying, standing and laying,
13 yes.

14 Q. The dog never ran out onto the porch;
15 correct?

16 A. The dog continued to charge all the way
17 out onto the porch, yes. I -- it chased me down the
18 stairs, but it stopped due to my firing of the weapon.

19 Q. I see. So you're saying you shot the dog
20 twice while the dog was right here (indicating)?

21 A. No, I'm not saying that. I'm saying from
22 the door inside to the stairs, to here (indicating),
23 between here and here (indicating), somewhere in there
24 was three gunshots towards the dog as I'm running down
25 the stairs. That's what I'm saying.



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1 JOSEPH PERRONE - BY MR. ALBERT

2 Q. That you fired shots while you were
3 running down the stairs?

4 A. Correct.

5 Q. Were you outside when you fired all three
6 of your shots?

7 A. No.

8 Q. How many shots did you fire while you were
9 outside?

10 A. Two.

11 Q. Okay. You fired one shot inside and two
12 shots outside; correct?

13 A. Best of my recollection, yes.

14 Q. Because the dog was running outside at
15 you; correct?

16 A. Correct.

17 Q. Okay. So the dog did run out the front
18 door; that's accurate? Correct?

19 A. To my recollection, yes.

20 MR. ALBERT: Do you have a copy of this?

21 MR. BEATH: That's the document we marked
22 as document 1 when Mr. Strong was here. But I don't
23 know where that is.

24 (There was a discussion off the record.)

25 Q. Let me just ask you this question. So if



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1 JOSEPH PERRONE - BY MR. ALBERT

2 someone were to say that you back stepped onto the
3 porch and fired three rounds, they would be mistaken,
4 because you shot one of the rounds inside the house;
5 correct?

6 A. Say that again.

7 Q. If someone were to have said that you back
8 stepped onto the porch and then fired three rounds,
9 they would be mistaken; correct?

10 A. I believe my first round was made upon the
11 dog coming towards me, and then I turned to run and
12 fired two more shots. That's the best of my
13 recollection.

14 Q. So then Officer Johnson shows up; right?

15 A. I believe, yes.

16 Q. And then Dawley shows up; correct?

17 A. I notified Sergeant Dawley. I'm not sure
18 when he arrived on, scene.

19 Q. Anyone else that you recall -- anyone else
20 show up on scene officer-wise?

21 A. According to this, Officer Johnston,
22 Officer Johnson, Officer Hopwood, Officer Brown, and
23 that's what's on the CAD here.

24 Q. So a lot of officers showed up; correct?

25 A. A few, yes.



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1 JOSEPH PERRONE - BY MR. ALBERT

2 Q. And what you did at that point was merely
3 speak to Officer Dawley and then leave; is that
4 accurate?

5 A. I spoke to sergeant Dawley.

6 Q. Sergeant Dawley, excuse me.

7 A. And I spoke to Officer Johnson. And I
8 stood by the scene away from the scene by my police
9 car for a short period of time, and then I did leave,
10 yes.

11 Q. So you didn't interact with Joseph Strong
12 at any point; correct?

13 A. No.

14 Q. You didn't interact, in fact, with any
15 civilians on scene; correct?

16 A. I did not, no.

17 Q. Did you see any police officers
18 interacting with any civilians on scene?

19 A. I don't recall seeing that, no.

20 MR. ALBERT: I'm not trying to be morbid.

21 (The following exhibits were marked for
22 identification: EXH Numbers 9 and 10.)

23 Q. Okay, I'm not trying to be morbid.

24 There's a legal reason why I have to do this.

25 Showing you depo 9 and 10, this is the



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1 JOSEPH PERRONE - BY MR. ALBERT

2 animal in question that you saw charge at you and that
3 you shot and killed on the date in question in January
4 of 2015?

5 A. Yes.

6 Q. And these depict the gunshot wounds that
7 she sustained; correct?

8 A. It's a photo of the dog, yes.

9 Q. And she was directly in front of you for
10 all three shots that you fired?

11 A. The first one was in front of me at my
12 feet, the second as I was running. My shots were
13 fired kind of like this as I'm running (indicating).
14 So I'm not sure exactly if the dog was head on, turned
15 or what. I just know it was coming towards me.

16 Q. And that's when you were outside running
17 on the stairs, and she was outside; correct?

18 A. Correct.

19 MR. BEATH: And for the record, you just
20 gestured with your right arm extended and with your
21 body turned away from your arm and that you were
22 shooting with that right arm?

23 THE WITNESS: That's correct.

24 MR. ALBERT: Okay. I have no further
25 questions.



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1 JOSEPH PERRONE - BY MR. BEATH

2 MR. BEATH: I just have a few questions.

3 EXAMINATION BY MR. BEATH:

4 Q. So this is Exhibit 8. Exhibit 8 shows the
5 porch area of 123 Trafalgar; is that right?

6 A. Yes.

7 Q. And that's how you recall it appearing
8 after this incident?

9 A. After the incident, yes.

10 Q. And you'll notice on the bottom left-hand
11 side of the entrance door does it look like there's
12 blood spatter there?

13 A. On the siding here where the door is?

14 Q. That's correct.

15 A. Yes.

16 Q. And does that have any -- seeing that
17 spatter there, does that have any meaning to you in
18 any fashion?

19 A. Yes, it does.

20 Q. What does it mean?

21 A. It means that one of my rounds struck the
22 dog there, thus causing the splatter from the animal
23 projecting it onto the siding and the door.

24 Q. And is that consistent with your
25 recollection of where the dog was as you fired at it?



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1 JOSEPH PERRONE - BY MR. BEATH

2 A. Yes.

3 Q. You have described during the course of
4 this deposition in detail about your ascending up onto
5 the porch, going through that doorway, encountering
6 the dog, discharging your firearm and fleeing off the
7 porch. And you've broken that down into small moments
8 of time.

9 Did this incident happen like that, kind
10 of like a small bit and then a pause and then a small
11 bit and a pause and a small bit and a pause?

12 MR. ALBERT: I'm going to object as to --
13 I have no idea -- that's vague.

14 MR. BEATH: Okay. Your objection is on
15 the record.

16 A. No, it did not occur like that.

17 Q. You said before -- looking at the
18 communications printout, it appears that between the
19 time that you got on the scene and when you went over
20 saying that there was a dog shot, how much time
21 passed?

22 A. One minute.

23 Q. And so what you've described from when you
24 got on the scene until the dog was shot, was that a
25 fluid ongoing situation?



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1 JOSEPH PERRONE - BY MR. BEATH

2 A. Yes.

3 Q. You said previously that the first shot --
4 when you first discharged your firearm, your gun was
5 pointed at a downward angle towards the dog, and the
6 dog was about a foot away from you at that time?

7 A. Yes.

8 Q. Do you know where that first bullet struck
9 the dog?

10 A. I believe right in the facial area of the
11 dog.

12 MR. BEATH: Okay. I don't have anything
13 else.

14 MR. ALBERT: Me either.

15 (TIME: 3:20 p.m.)

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W I T N E S S

Name	Examination by	Page

Joseph Perrone	Mr. Albert	4-36
" "	Confidential	37-39
" "	Mr. Albert	40-44
" "	Mr. Beath	45-47

* * *


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E X H I B I T S

Exhibit	Description	Marked ID'ed	

EXH 4	Three pages of dispatch records	14	14
EXH 5	Color photocopy of a photograph	16	16
EXH 6	Rochester Police Department Animal Services Report	32	
EXH 7	Rochester Police Department Incident Report, dated 1/16/15	32	
EXH 8	Color photocopy of a photograph	34	34
EXH 9	Color photocopy of a photograph	43	43
EXH 10	Color photocopy of a photograph	43	43

* * *

EXHIBITS PREVIOUSLY MARKED

Exhibit	Description	Page
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EXH

(No Previously Marked Exhibits Presented)

* * *



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D O C U M E N T R E Q U E S T S

Request

Page

Any and all documentation, including
 discharge firearm forms, relating to four
 dog shootings (Mr. Albert)

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* * *

C E R T I F I E D Q U E S T I O N S

Question

Page

(No Certified Questions)

* * *



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A C K N O W L E D G M E N T

I, Joseph Perrone, declare, swear and aver that I have read my testimony contained herein and that my answers are true and correct, with any exceptions noted on the errata sheet, under penalty of perjury.

Joseph Perrone

I certify that this transcript was signed in my presence by Joseph Perrone on the ____ day of _____, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office of Rochester, New York on this ____ day of _____, 2018.

Notary Public

My Commission Expires:



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E R R A T A S H E E T

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Witness: Joseph Perrone

Deposition Date: July 19, 2018

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Pg #	Line #	Change	Clarification
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C E R T I F I C A T I O N

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STATE OF NEW YORK:
COUNTY OF MONROE:

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I, MICHELLE M. ROCHA, do hereby certify
that the foregoing testimony was duly sworn to; that I
reported in machine shorthand the foregoing pages of
the above-styled cause, and that they were produced by
computer-aided transcription (CAT) under my personal
supervision and constitute a true and accurate record
of the testimony in this proceeding;

I further certify that the witness
requests to review the transcript;

I further certify that I am not an
attorney or counsel of any parties, nor a relative or
employee of any attorney or counsel connected with the
action, nor financially interested in the action;

WITNESS my hand in the City of Rochester,
County of Monroe, State of New York.



MICHELLE M. ROCHA

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Freelance Court Reporter and

Notary Public No. 01R05038965

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in and for Monroe County, New York



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